

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 252, As Amended

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622R, IDAHO CODE, TO IMPOSE A SALES AND USE TAX EXEMPTION WHERE THAT PORTION OF TAX EXCEEDS THE SALES AND USE TAX RATE THAT A NONRESIDENT PURCHASER WOULD PAY IN THE STATE OF RESIDENCE ON SALES UNDER CERTAIN CONDITIONS, TO PROVIDE DUTIES OF THE STATE TAX COMMISSION, TO IMPOSE A SALES AND USE TAX EXEMPTION FOR SALES OF CERTAIN ITEMS MANUFACTURED IN IDAHO FOR USE AND LICENSING OUTSIDE OF IDAHO WHEN SOLD DIRECTLY BY THE MANUFACTURER TO THE OUT-OF-STATE PURCHASER AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF A CERTAIN AMOUNT OF SALES TAX MONEYS TO THE STATE HIGHWAY ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3622R, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622R. MOTOR VEHICLES, USED MANUFACTURED HOMES, VESSELS, ALL-TERRAIN VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES, SNOWMOBILES AND GLIDER KITS. There are exempted from the taxes imposed by this chapter:

(a) That portion of the taxes imposed by this chapter which exceeds the general retail sales or use tax, excluding any local taxes, that a nonresident purchaser would pay in their state of residence on sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), motorcycles intended for off-road use and snowmobiles, for use outside of this state even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles and trailers will be registered immediately under the laws of another state, will be titled in another state if required to be titled in that state, will not be used in this state more than sixty (60) days in any twelve (12) month period, and will not be required to be titled under the laws of this state.

(3) For the purpose of this subsection ~~(a)~~, the term "all-terrain vehicle" or "ATV" means all-terrain vehicle or ATV as defined in section 49-102, Idaho Code.

(4) For the purpose of this section, the term "vessel" means any boat intended to carry one (1) or more persons upon the water which is either:

(i) Sold together with a motor, or

(ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks or inflatable boats, unless such canoes, kayaks or inflatable boats are sold together with a motor.

1 The state tax commission shall prepare at least annually a sales and use
 2 tax schedule listing the sales and use tax rates for other states not includ-
 3 ing local government sales and use tax rates, and post such schedule on its
 4 website and otherwise make the schedule available to dealers selling items
 5 listed in this subsection. Such schedule shall also contain a column for the
 6 sales tax rate to be applied by sellers under this subsection for nonresident
 7 purchasers based upon their state of residence and the Idaho tax due under
 8 this subsection.

9 (b) Sale of used manufactured homes, whether or not such used manufac-
 10 tured homes are sold for use outside this state, and whether or not such used
 11 manufactured homes are sold by a dealer. Every manufactured home sale after
 12 its sale as a "new manufactured home," as defined in section 63-3606, Idaho
 13 Code, is a sale as a used manufactured home.

14 (c) Sale or lease of motor vehicles with a maximum gross registered
 15 weight over twenty-six thousand (26,000) pounds, which shall be immediately
 16 registered under the international registration plan, whether or not base
 17 plated in Idaho, and the sale or lease of trailers which are part of a fleet
 18 of vehicles registered under the international registration plan when such
 19 vehicles and trailers are substantially used in interstate commerce. If
 20 such a motor vehicle or trailer is not substantially used in interstate com-
 21 merce during any four (4) fiscal year quarters beginning July 1 and ending
 22 June 30 of each year under the international registration plan, it shall be
 23 deemed used in Idaho and subject to the use tax under section 63-3621, Idaho
 24 Code. For the purpose of this subsection, "substantially used in interstate
 25 commerce" means that the vehicles or trailers will be part of a fleet with a
 26 minimum of ten percent (10%) of the miles operated by the fleet accrued out-
 27 side of Idaho in any four (4) fiscal year quarters beginning July 1 and ending
 28 June 30 of each year under the international registration plan.

29 (d) The sale or purchase of a glider kit when the glider kit will be used
 30 to assemble a glider kit vehicle as defined in section 49-123, Idaho Code,
 31 which will be immediately registered under a plan defined in subsection (c)
 32 of this section, provided that if the glider kit vehicle is not substantially
 33 used in interstate commerce as defined in subsection (c) of this section dur-
 34 ing any registration period, it shall be subject to the use tax under section
 35 63-3621, Idaho Code.

36 (e) The use or other consumption of a motor vehicle temporarily donated
 37 to a driver's education program sponsored by a nonprofit educational insti-
 38 tution as defined in section 63-36220, Idaho Code.

39 (f) Sales of items listed in subsection (a) (1) of this section, man-
 40 ufactured in the state of Idaho for use and licensing outside the state of
 41 Idaho when sold directly by the manufacturer to the out-of-state purchaser.

42 SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
 45 chapter, except as may otherwise be required in sections 63-3203 and
 46 63-3709, Idaho Code, shall be distributed by the state tax commission as
 47 follows:

48 (1) An amount of money shall be distributed to the state refund account
 49 sufficient to pay current refund claims. All refunds authorized under this

chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3628, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million one hundred thousand dollars (\$4,100,000), of which two million two hundred thousand dollars (\$2,200,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and one million nine hundred thousand dollars (\$1,900,000) of which shall be distributed to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. For fiscal year 2012, and for each fiscal year thereafter, the amount distributed pursuant to this subsection, shall be adjusted annually by the state tax commission in accordance with the consumer price index for all urban consumers (CPI-U) as published by the U.S. department of labor, bureau of labor statistics, but in no fiscal year shall the total amount allocated for counties under this subsection, be less than four million one hundred thousand dollars (\$4,100,000). Any increase resulting from the adjustment required in this section shall be distributed to each county in the proportion that the population of the county bears to the population of the state. Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution pursuant to this subsection. All such revenues shall be used exclusively to defray the costs associated with conducting elections as required of county clerks by the provisions of section 34-1401, Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile,

1 all-terrain vehicle or other vehicle processed by the county assessor or the
 2 Idaho transportation department excepting those applications in which any
 3 sales or use taxes due have been previously collected by a retailer, shall be
 4 a fee for the services of the assessor of the county or the Idaho transporta-
 5 tion department in collecting such taxes, and shall be paid into the current
 6 expense fund of the county or state highway account established in section
 7 40-702, Idaho Code.

8 (10) Eleven and five-tenths percent (11.5%) is continuously appropri-
 9 ated and shall be distributed to the revenue sharing account which is created
 10 in the state treasury, and the moneys in the revenue sharing account will be
 11 paid in installments each calendar quarter by the state tax commission as
 12 follows:

13 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 14 various cities as follows:

15 (i) Fifty percent (50%) of such amount shall be paid to the vari-
 16 ous cities, and each city shall be entitled to an amount in the pro-
 17 portion that the population of that city bears to the population of
 18 all cities within the state; and

19 (ii) Fifty percent (50%) of such amount shall be paid to the vari-
 20 ous cities, and each city shall be entitled to an amount in the pro-
 21 portion that the preceding year's market value for assessment pur-
 22 poses for that city bears to the preceding year's market value for
 23 assessment purposes for all cities within the state.

24 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 25 various counties as follows:

26 (i) One million three hundred twenty thousand dollars
 27 (\$1,320,000) annually shall be distributed one forty-fourth
 28 (1/44) to each of the various counties; and

29 (ii) The balance of such amount shall be paid to the various coun-
 30 ties, and each county shall be entitled to an amount in the propor-
 31 tion that the population of that county bears to the population of
 32 the state;

33 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appro-
 34 priated in this subsection shall be paid to the several counties for
 35 distribution to the cities and counties as follows:

36 (i) Each city and county which received a payment under the provi-
 37 sions of section 63-3638(e), Idaho Code, during the fourth quarter
 38 of calendar year 1999, shall be entitled to a like amount during
 39 succeeding calendar quarters.

40 (ii) If the dollar amount of money available under this subsection
 41 (10) (c) in any quarter does not equal the amount paid in the fourth
 42 quarter of calendar year 1999, each city's and county's payment
 43 shall be reduced proportionately.

44 (iii) If the dollar amount of money available under this subsec-
 45 tion (10) (c) in any quarter exceeds the amount paid in the fourth
 46 quarter of calendar year 1999, each city and county shall be en-
 47 titled to a proportionately increased payment, but such increase
 48 shall not exceed one hundred five percent (105%) of the total pay-
 49 ment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638 (e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this ~~subsection (10) (d) paragraph~~ in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this ~~subsection (10) (d) paragraph~~ in any quarter exceeds the amount distributed under subparagraph (i) of this ~~subsection (10) (d) paragraph~~, each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1) (e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the state tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or discontinued, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or discontinuation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this ~~subsection (10) (d) paragraph~~.

(vii) For purposes of this ~~subsection (10) (d) paragraph~~, a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(11) Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the state tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(12) Amounts necessary to pay refunds as provided in section 63-3641, Idaho Code, to a developer of a retail complex shall be remitted to the demonstration pilot project fund created in section 63-3641, Idaho Code.

(13) Amounts calculated in accordance with subsection (4) of section 63-602KK, Idaho Code, for annual distribution to counties and other taxing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (2) of section 63-602KK, Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602KK, Idaho Code, shall be treated as property tax revenues. If taxing districts are consolidated, the resulting district

1 is entitled to an amount equal to the sum of the amounts that were received in
2 the last calendar year by each district pursuant to this subsection prior to
3 the consolidation. If a taxing district or revenue allocation area annexes
4 territory, the distribution of moneys received pursuant to this subsection
5 shall be unaffected. Taxing districts and revenue allocation areas formed
6 after January 1, 2013, are not entitled to a payment under the provisions of
7 this subsection.

8 (14) Amounts collected from purchasers and paid to the state of Idaho by
9 retailers that are not engaged in business in this state and which retailer
10 would not have been required to collect the sales tax, less amounts other-
11 wise distributed in subsections (1) and (10) of this section, shall be dis-
12 tributed to the tax relief fund created in section 57-811, Idaho Code. The
13 state tax commission will determine the amounts to be distributed under this
14 subsection.

15 (15) Ten million dollars (\$10,000,000) to the state highway account
16 for construction and improvement of state highways as provided in section
17 40-702(6), Idaho Code.

18 (16) Any moneys remaining over and above those necessary to meet and
19 reserve for payments under other subsections of this section shall be dis-
20 tributed to the general fund.